

FILE COPY

STATE OF WISCONSIN  
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF:

BACH PHAN,  
D/B/A NAIL ARTS,

Applicant

ORDER ADOPTING STIPULATION  
LS 9810061 RAL  
97 BAC 003

On or about October 15, 1998, Bach Phan, 30567 Sunburst, Apt. B, Roseville, MI 48066 filed an application for a manicuring establishment license. The information received in the application process reflects that at least from June 1998 until at least September 1998, Ms. Phan was operating Nail Arts, an *unlicensed manicuring establishment located at 5516 Durand Ave., Racine, WI 53406, in violation of section 454.08(2)(d) of the Wisconsin statutes and Wisconsin Administrative Code § BC 3.01(1).* The information further reflects that at least on July 24, 1998: (1) licensees working at Nail Arts were not washing their hands prior to serving each patron, in violation of Wis. Admin. Code § BC 2.01(1); (2) no clean towels were available for patrons, in violation of Wis. Admin. Code § BC 4.02(7); and (3) no tuberculocidal disinfectant was available for manicure instruments, in violation of Wis. Admin. Code § BC 4.10(1)(b). The Board and Applicant have entered into a Stipulation by which the Board agreed to issue and applicant agreed to accept, a manicuring establishment license subject to specified conditions. Based upon the stipulation and information of record herein, it is ORDERED as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that Bach Phan, d/b/a Nail Arts, is granted a manicuring establishment license, subject to the following terms and conditions:

Bach Phan shall pay to the Department of Regulation and Licensing a forfeiture of four hundred dollars (\$400.00). Upon receipt of the \$400.00 forfeiture, the Board shall issue applicant's establishment license.

*Payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing and sent to:*

Department Monitor  
Division of Enforcement  
PO Box 8935  
Madison, WI 53708

STATE OF WISCONSIN  
BARBERING AND COSMETOLOGY EXAMINING BOARD

By:

Carolyn Gallagher 10-30-98  
On behalf of the Board Date

STATE OF WISCONSIN  
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF.

BACH PHAN,  
D/B/A NAIL ARTS,

Applicant

STIPULATION  
LS 9810061 RAL  
98 BAC 104

It is hereby stipulated between the above-referenced applicant and the State of Wisconsin Barbering and Cosmetology Examining Board as follows:

On or about October 15, 1998, the applicant filed an application for a manicuring establishment license. The information received in the application process reflects a basis for disciplinary action by the Board. Based upon the information of record herein, the board agrees to issue and the applicant agrees to accept, an Order issuing an establishment license subject to the terms and conditions set forth in the attached Order Adopting Stipulation.

X Dated this 26 day of 10, 1998.

X Bach Phan  
Bach Phan  
d/b/a Nail Arts  
Applicant

Dated this 30<sup>th</sup> day of October, 1998.

STATE OF WISCONSIN  
BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Carolyn Gallagher  
On behalf of the Board

STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING  
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

In the Matter of the License of

Bach Phan,  
d/b/a Nail Arts,

AFFIDAVIT OF MAILING

Applicant.

STATE OF WISCONSIN    )  
                                  )  
COUNTY OF DANE        )


I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On November 2, 1998, I served the Order Adopting Stipulation dated October 30, 1998, LS9810061RAL, upon the Applicant Bach Phan, d/b/a Nail Arts, by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Applicant and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is Z 233 819 921.

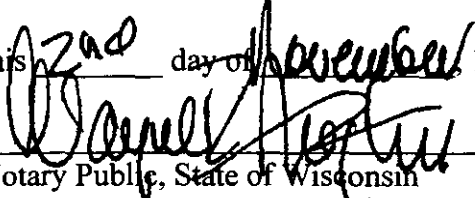
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Applicant's last-known address and is:

Bach Phan  
d/b/a Nail Arts  
5516 Durand Avenue  
Racine WI 53406

  
\_\_\_\_\_  
Kate Rotenberg  
Department of Regulation and Licensing  
Office of Legal Counsel

Subscribed and sworn to before me

this 2nd day of November 1998.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is permanent.

## NOTICE OF RIGHTS OF APPEAL

TO: BACH PHAN, d/b/a NAIL ARTS

You have been issued an Order. For purposes of service the date of mailing of this Order is 11/2/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

### A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Order is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

### B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

### SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD  
1400 East Washington Avenue  
P.O. Box 8935  
Madison WI 53708-8935